

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

DAVID B. NEWMAN and IRA F/B/O  
DAVID NEWMAN- PERSHING LLC as  
Custodian, on behalf of themselves and all  
Others Similarly Situated, and Derivatively on  
behalf of FM LOW VOLATILITY FUND,  
L.P.,

Plaintiffs,

v.

FAMILY MANAGEMENT CORPORATION;  
SEYMOUR W. ZISES; ANDREA L.  
TESSLER; ANDOVER ASSOCIATES LLC I;  
ANDOVER ASSOCIATES MANAGEMENT  
CORP.; BEACON ASSOCIATES LLC I;  
BEACON ASSOCIATES MANAGEMENT  
CORP.; JOEL DANZIGER, HARRIS  
MARKHOFF; IVY ASSET MANAGEMENT  
CORP.; THE BANK OF NEW YORK  
MELLON CORPORATION; MAXAM  
ABSOLUTE RETURN FUND, LP; MAXAM  
CAPITAL MANAGEMENT LLC; MAXAM  
CAPITAL GP, LLC; MAXAM CAPITAL  
MANAGEMENT LIMITED; SANDRA  
MANZKE; and JOHN DOES 1-100,

Defendants,

and FM LOW VOLATILITY FUND, L.P.,

Nominal Defendant.

**NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiffs respectfully submit a decision issued by Judge Marrero today in *Anwar v.*

*Fairfield Greenwich Limited, et al.*, 09-cv-0118(VM), which is a Madoff feeder case like this one, denying that portion of defendants' motion to dismiss that sought to dismiss plaintiffs' state law claims on Martin Act preemption grounds. The decision, which is attached as Exhibit A,

supports many of the arguments made by plaintiffs against Martin Act preemption in their memoranda in opposition to the motions to dismiss that are pending in this case.

Dated: July 29, 2010

WOLF HALDENSTEIN ADLER  
FREEMAN & HERZ LLP

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